

SECOND REGULAR SESSION

SENATE BILL NO. 1116

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR STOUFFER.

Read 1st time February 27, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

4544S.03I

AN ACT

To amend chapter 26, RSMo, by adding thereto one new section relating to dispute resolution.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 26, RSMo, is amended by adding thereto one new
2 section, to be known as section 26.825, to read as follows:

**26.825. 1. For the purposes of this section, the following terms
2 shall mean:**

3 (1) "Mediation", a voluntary settlement process where the parties
4 to a dispute meet with a neutral and impartial third party who assists
5 the parties to reach a mutually acceptable resolution of the conflict;

6 (2) "Mediator", a neutral and impartial person trained in the
7 process of mediation who assists the parties to a dispute with the
8 mediation process.

9 2. The office of administration shall create and maintain a list of
10 mediators approved by its office who have met minimum training
11 guidelines as provided in this section, for the purpose of mediating
12 referred disputes.

13 3. To be approved by the office of administration, the mediator
14 shall:

15 (1) Complete a minimum of forty hours in a training program
16 approved by the office of administration;

17 (2) Observe a minimum of two mediations;

18 (3) Conduct a minimum of two mediations under the supervision
19 and observation of an approved mediator, or under the supervision and
20 observation of a person experienced in mediation training and
21 observation who has been approved by the office of administration to

22 conduct such supervision and observation; and

23 (4) Be of good moral character.

24 Training programs that may be approved by the office of
25 administration shall include, but not be limited to, any training
26 program approved or established by the American Bar Association, the
27 Missouri Bar Association, and the Association for Missouri Mediators.

28 4. In order to maintain their status as an approved mediator
29 with the office of administration, all approved mediators shall complete
30 and report on the completion of at least sixteen hours of continuing
31 mediator education, including a minimum of four hours focusing on
32 mediator ethics, in each two year renewal cycle, including the two
33 years following initial approval by the office of administration. In
34 order to qualify as continuing mediator education by the office of
35 administration, the course or activity shall be conducted by an
36 individual or group qualified by practical or academic experience, and
37 shall constitute an organized program of learning directly related to
38 the practice of mediation. Continuing education may be completed in
39 the following formats:

40 (1) Attendance at a live lecture or seminar;

41 (2) Listening to or viewing audio or video presentations, whether
42 at a lecture or seminar with a group or on an individual basis;

43 (3) Co-mediating with or supervising mediator trainees;

44 (4) Lecturing or teaching at continuing mediator education
45 courses; and

46 (5) Authoring or editing written materials submitted for
47 publication that have significant intellectual or practical content
48 directly related to the practice of mediation.

49 5. Beginning January 1, 2007, the office of administration shall
50 refer any dispute involving the following agencies to a mediator from
51 its approved list:

52 (1) The department of social services;

53 (2) The department of natural resources;

54 (3) The department of insurance;

55 (4) The office of administration, in cases involving purchases and
56 contracts;

57 (5) The Missouri ethics commission; and

58 (6) The department of transportation.

59 Disputes shall be referred for mediation prior to the commencement of
60 any administrative hearing. The office shall refer the case to an
61 approved mediator with specific orders for the parties to attend the
62 mediation and enter into good faith negotiations and settlements. The
63 mediation shall be completed or terminated within sixty days of the
64 referral unless all of the parties to the dispute consent to the
65 continuation of mediation proceedings.

66 6. Each mediator approved by the office shall make no decisions
67 for the parties, but shall assist the parties in reaching a mutually
68 acceptable resolution of their dispute through mediation. The mediator
69 shall act in accordance with the ethics requirements and standards as
70 approved by the office of administration. The mediator shall terminate
71 the mediation process if the parties are unable to reach an agreement,
72 or if the parties refuse to participate in good faith with the mediation
73 process. Such termination shall be without prejudice to any party in
74 any other proceeding.

75 7. All verbal or written information transmitted between any
76 party to a dispute and a mediator approved by the office of
77 administration shall be confidential communications. Mediation
78 proceedings mandated by this section shall be regarded as settlement
79 negotiations, and no admission, representation, statement made in such
80 mediation proceedings shall be admissible as evidence or subject to
81 discovery.

82 8. Nothing within this section shall be deemed to alter the
83 training guidelines or qualifications for mediators approved by other
84 entities or courts.

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